

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 5-07-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic activities, therapeutic exercises, office visits, work hardening (initial and additional hours), and functional capacity evaluation rendered from 6/03/03 through 8/04/03 **were found** to be medically necessary. The hot/cold packs and electrical stimulation services rendered from 3/17/03 through 4/04/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 1<sup>st</sup> day of November 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees as follows:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);

- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is applicable to dates of service 6/03/03 through 8/04/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 1<sup>st</sup> day of November 2004.

Hilda H. Baker, Manager  
Medical Dispute Resolution  
Medical Review Division

HHB/rlc

August 25, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:  
TWCC #:  
MDR Tracking #: M5-04-2949-01  
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

## RECORDS REVIEWED

Position statements of SRS/Hartford and Medway, peer review of Dr. G, initial FCE report, daily notes, "environmental interventions" notes, daily work hardening notes, group psychology notes, initial psych evaluation, appeal letter from the requestor.

## CLINICAL HISTORY

The patient was injured on her job with \_\_\_\_ learning center when she was taking out some trash and sustained an injury to the right knee and shoulder. She apparently did not believe the injury to be serious, but after about 3 weeks she did seek care for the injury from Accident and Injury Chiropractic. Records indicate that a MRI of the right knee and shoulder were performed, which were negative. Despite the MRI reports that are quoted in the records, surgery was performed and it was found that the patient had torn medial and lateral menisci as well as a torn anterior cruciate ligament and loose bodies in the knee. She underwent rehabilitation for the injuries, which included Work Hardening at the Medway Rehabilitation Center. A peer review was performed by Dr. G and he found that ongoing chiropractic care was not reasonable, and that in fact the patient had gotten worse with the care received. He also noted that the work hardening program administered was not reasonable.

## DISPUTED SERVICES

The carrier has denied the medical necessity of therapeutic activities, therapeutic exercises, hot/cold packs, electrical stimulation unattended, office visits, work hardening (initial), work hardening (additional hours) and a functional capacity evaluation from June 3, 2003 through August 4, 2003.

## DECISION

The reviewer agrees with the prior adverse determination for hot/cold packs and electrical stimulation. The reviewer disagrees with the prior adverse determination for all other care rendered.

## BASIS FOR THE DECISION

This was hardly a minor sprain injury. This patient did indeed have an acknowledged derangement of the knee. The passive treatment at the point that it was rendered would have little or no effect on this patient's case, but I do believe the records adequately indicate steady progress from the injury. Clearly, this was not the most motivated patient. However, the FCE shows that the patient needed a whole person rehabilitation program and the initial psychological evaluation indicates that the patient did have "significant depressive and anxiety symptoms" which would make the work hardening program the more appropriate of choices for care. The carrier's contention that a home-based program for this type of injury carries little weight, as the patient's emotional condition would leave little room for motivation in a case such as this. The carrier also stated that a \$400 follow-up visit program as opposed to a \$20,000 work hardening program was more cost effective. In this particular case, that would not be a consideration, as the most appropriate care would be a resident treatment program. The care rendered, except the passive modalities, was clearly expected to result in a treatment program that would enable this patient to return to work. As a result, the reviewer finds that the care was reasonable and necessary.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,